

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Ronald Mathis, #15685-018,)	
)	C/A No. 8:05-3000-MBS
Plaintiff,)	
)	
vs.)	O R D E R
)	
United States of America,)	
)	
Defendant.)	
_____)	

Plaintiff Ronald Mathis is an inmate in custody of the Bureau of Prisons who currently is housed at the Federal Correctional Institution in Estill, South Carolina. On October 28, 2005, Plaintiff, proceeding pro se, filed the within complaint pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346(b), for the alleged negligent mishandling of his personal property during his transfer from the United States Penitentiary in Beaumont, Texas, to FCI-Estill.

This matter is before the court on motion to dismiss filed by the United States on February 12, 2008 (Entry 26). The United States contends that the court lacks subject matter jurisdiction because the United States has not waived immunity under the Act for damage to detained goods. See 28 U.S.C. § 2680(c) (retaining governmental immunity from claims arising out of the detention of property by law enforcement officers, among others). By order filed February 13, 2008, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the dismissal procedures and the possible consequences if he failed to respond adequately. Plaintiff filed a response in opposition to Defendant's motion on March 27, 2008.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. The Magistrate Judge

filed a Report and Recommendation on June 27, 2008 in which she recommended that Defendant's motion to dismiss be granted. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendant's motion to dismiss (Entry 26) is **granted**. Plaintiff's motion for trial (Entry 31) filed April 2, 2008, is **denied**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

United States District Judge

Columbia, South Carolina

July 24, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.